IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

Crl.L.P..No. 169 of 2007()

(ST 597/2001 ON THE FILE OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-II, THRISSUR)

: PETITIONER/COMPLAINANT.

K.K.SIVAKUMAR, S/O.KOTTUKKAL KUNJITTY,
P.O.KARAYAMUTTOM, VALAPPAD VIA, CHAVAKKAD TALUK,
REPRESENTED BY POWER OF ATTORNEY HOLDER K.B.RAJAN,
S/O.KOZHIPARAMBIL, BALAKRISHNAN, VALAPPAD.

BY ADV. SRI.P.R.SHAJI

RESPONDENTS: ACCUSED AND STATE.

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1. C.V.RAMAKRISHNAN, S/O.CHERAMPARAMBIL
VELAYUDHAN, WARD NO 15, HOUSE NO. 48, AYYANTHOLE
PANCHAYATH, GURUVAYOOR ROAD, POONKUNNAM,
THRISSUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P.SRI.M.S.BREEZE FOR R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl.L.P. No. 169 of 2007

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Dated this the 19th day of March, 2007

O R D E R

This is a petition to special leave to appeal filed by the complainant in S.T.No.597/2001 on the file of the Judicial Magistrate of First Class-II, Thrissur. In the complaint it is stated that the 1st respondent borrowed an amount of Rs.2,00,000/- from the petitioner and in discharge of the above debt, he issued a post dated cheque to the petitioner and when the cheque was presented for encashment, the same was bounced for want of sufficient funds in the account of the 1st respondent. On the side of the prosecution, PW1 was examined and Exts.P1 to P7 were marked. After closing the evidence of the petitioner, the 1st respondent was questioned under section 313 Cr.P.C., he stated that there was no liability between the petitioner and the 1st respondent. He also stated that the cheque was presented for encashment after the expiry of the period and hence the cheque would not create any liability on him as per section 73 of the Negotiable Instruments Act. To substantiate his case, Exts.D1 to D3 were marked. After considering the evidence adduced on either side, the trial court found that the cheque had reached the bank of the accused after the expiry of its validity period

and hence no cause of action would arise on the basis of that cheque. Section 73 of the Negotiable Instruments Act, a cheque must in order to charge any person to be presented within a reasonable time. It is proved that Ext.P2 cheque was presented by the petitioner after the expiry of its validity period. Hence, the conclusion arrived at by the trial court does not require any interference by this Court. Accordingly, leave to appeal is rejected.

K. Thankappan,
Judge.

mn.

K.Thankappan,J.

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ORDER

2-3-2007